

THE EFFECTIVE DATE OF THIS ORDINANCE IS MARCH 11, 2004

ORDINANCE NO. 04-03-347

OPINION, FINDINGS AND ORDINANCE
OF
BOARD OF COUNTY COMMISSIONERS
OF
FREDERICK COUNTY, MARYLAND

RE: APPLICATION OF AUSERMAN DEVELOPMENT CORPORATION
REZONING CASE NO. R-03-01

OPINIONS/FINDINGS

Auserman Development Corporation filed this application to rezone 138.7 acres of land, more or less, from Agriculture to PUD, Planned Unit Development, to permit the development of a mixed-use residential community containing a maximum of 763 dwelling units. The property is located on the northeast side of Elmer Derr Road and the northwest and southeast sides of Ballenger Creek Pike in the Adamstown Planning Region.

The staff of the Frederick County Planning Commission recommended approval of the PUD request with twenty-two specified conditions. The maximum land use density recommended by the Planning Commission staff is based on the project proposal to consist of 763 dwelling units (including 103 Moderately Priced Dwelling Units) comprised of a mix of between 140-165 single-family detached, 275-325 single-family attached, and 300-350 multi-family dwelling units as follows:

Land Bay A

42.0± acres to be developed with a variety of single-family detached units with lot sizes ranging from 5,000 square feet to 10,000 square feet (Density Range: 3.4-4.0 dwelling units per acre).

Land Bay B

20.0± acres to be developed predominantly with a variety of single-family attached/townhouse dwelling units (including conventional bay parking, garage, and back to back units) with the opportunity to incorporate multi-family units (Density Range: 10.0-14.0 dwelling units per acre).

Land Bay C

17.0± acres to be developed predominantly with a variety of multi-family dwelling units with the opportunity to incorporate single-family attached/townhouse units (Density Range: 14-20 dwelling units per acre).

Land Bay D

10.0± acres to be developed predominantly with a variety of single-family attached/townhouse dwelling units (including conventional bay parking, garage, and back to back units) with the opportunity to incorporate multi-family units (Density Range: 10.0-14.0 dwelling units per acre).

This creates a maximum density of 5.5 dwelling units per acre -- $\frac{763 \text{ dwelling units}}{138.7 \text{ acres}}$

Based on all the evidence in the case submitted in this case, the Board makes the following specific findings of fact (in addition to the findings above) on each of the matters required by Md. Code Ann., Art. 66B, § 4.05(a):

1. **POPULATION CHANGE:** Page 5 of the PUD Phase I application states that the project will yield 140-165 single family units, 275-325 townhouse units and 300-350 multifamily units. Build out of this property at these densities would yield 87-103 elementary students, 52-61 middle school students and 56-66 high school students. An Adequate Public Facilities Ordinance (APFO) test will be done for this site at the time of Phase II application.

2. AVAILABILITY OF PUBLIC FACILITIES:

A. SCHOOLS

The site is currently within two elementary school districts; Ballenger Creek Elementary School and Carroll Manor Elementary School. Both are currently overcrowded (Ballenger Creek is at 102% and Carroll Manor is at 111% of capacity). However, Tuscarora Elementary School is currently under construction and will relieve both schools. Tuscarora Elementary School will serve this site when it opens in September 2004.

This site is served by Ballenger Creek Middle School, which is currently operating at 133% of capacity. Crestwood Middle School is under construction and expected to open in September 2004. While the site will continue to be served by Ballenger Creek Middle School (not Crestwood as the application mistakenly states), the opening of Crestwood Middle School will relieve the overcrowding at Ballenger Creek Middle School.

This site is currently served by three high schools; Frederick, Urbana, and Tuscarora High School. During the 2003 – 2004 school year, 9th and 10th grade students from the site will attend Tuscarora High School while 11th and 12th grade students would attend either Frederick or Urbana High Schools. Frederick High School is currently operating at 97% of capacity and Urbana High School at 121%. 11th grade will be added to Tuscarora High School in September 2004 and 12th grade in September 2005 thereby reducing enrollments primarily at Frederick High School but also at Urbana High School. An addition to Urbana High School is now under construction. By the time this development is built and has any occupancy of dwelling units, all students would attend Tuscarora High School.

Frederick County Zoning Ordinance requires PUDs containing 500 or more dwelling units to dedicate one acre of land for each 100 dwelling units for school sites. This PUD is required to dedicate 7.6 acres. The applicant proposes to dedicate a 4.6-acre parcel adjoining the Tuscarora Elementary School to the BOE for the purposes of enlarging that school site. The remaining 3 acres is proposed at a different location for public use. Frederick County Public Schools (FCPS) support this proposal with the condition that the 4.6 acres is located adjacent to the southwest corner of the school site in a configuration that allows for additional fields for use by both the school and the County Parks and Recreation Program. The developer should provide the site rough graded. In addition, an alternative

access to these fields should be provided from an internal street in the new development. FCPS will work cooperatively with the County Parks and Recreation to develop and maintain these fields.

B. PARKS AND RECREATION FACILITIES

- **8.5 Acre Recreation Area:**

The Department of Parks and Recreation recommends that the 8.5± acre parcel depicted on the Linton Property PUD Phase I Schematic Plan dated September 2003 and revised October 29, 2003 be dedicated to the Homeowners' Association (HOA) as an open space/recreational area. The Frederick County Comprehensive Plan notes acreage recommendations for neighborhood (1-10 acres), community (20-75 acres) and district (100+ acres) parks (Frederick County Comprehensive Plan, Volume I: Countywide Plan, pages 8-21 and 8-22). The acreage of this proposed recreational area falls well within the recommendations for a neighborhood park to be dedicated to the HOA through the subdivision process.

- **Ballenger Creek Linear Park/Trail:**

The Department of Parks and Recreation notes that the 8.5± acre parcel and the associated stream/wetlands/floodplain area located on the north side of Ballenger Creek Pike, as an access point to the Ballenger Creek Linear Park/Trail, is of limited value to the Department. Consequently, the Department does not recommend an easement, dedication, or fee simple deeding of this property to the County for a public trail and/or public access point. However, if the Homeowners' Association would desire to connect an internal trail system to the Ballenger Creek Linear Park/Trail system, upon its completion, the County would have no objection to such connection as long as the HOA trail is constructed to County standards.

- **School/Park 4.6± Acre Parcel Adjacent to Tuscarora Elementary:**

The applicant proposes to dedicate a 4.6± acre parcel adjoining the Tuscarora Elementary School to the County for the purposes of enlarging the school site (reference Linton Property PUD Phase I Schematic Plan dated September 2003 and revised October 29, 2003). Parks and Recreation supports this proposal with the condition that the 4.6 acres is located adjacent to the southwest corner of the school site in a configuration that allows for additional fields for use by both the school and the County Parks and Recreation Program. The developer should provide the site rough

graded. In addition, an alternative access to these fields should be provided from an internal street in the new development. The Department of Parks and Recreation will work cooperatively with the Frederick County Public Schools' staff to develop and maintain these fields. The location of this site provides for an additional open space buffer between this development and the property to the east.

C. WATER AND SEWER

The property is currently classified as W-5 Dev./S-5 Dev. on the Frederick County Water and Sewerage Master Plan. The property is within the service area of the Ballenger Creek water and sewer systems. As part of the Ballenger water system study, the County's consultant has done preliminary water modeling. The results show that a planned water main through this site needs to be 16 inches in size.

The applicant should furnish a feasibility study of water and sewer alternatives concurrent with the submission of a Phase II PUD plan pursuant to the APFO. The study should contain, but not be limited to:

- All considerations of the goals and policies with Chapter 1 of the Frederick County Water and Sewerage Master Plan.
- Consideration of the existing and projected water and sewer Capital Improvement Program projects, which impact this property, and an indication of how the site will interface with those improvements. Including a discussion of the water and sewer system inadequacies resulting from the construction of this property.

In addition, the applicant should provide an analysis, which shall locate a site for a future water storage tank and determine the tank capacity. The project shall provide a fee simple outlot for such tank if it is determined to be needed. The site shall be of sufficient size to accommodate a tank and a booster station. The tank shall be at the highest elevation on the property.

The use of individual grinder pumps shall not be permitted.

No new sewage pump station(s) shall be permitted on this site.

Offsite water mains may be required to provide adequate hydraulic capacity and redundancy to the water system.

The applicant shall study, design, and construct, as necessary, the appropriate portion(s) of the Ballenger Interceptor Sewer Phase II project, which has not been funded in the County's CIP.

The applicant will provide gravity sewer service to the existing residence, which is to be retained.

3. PRESENT AND FUTURE TRANSPORTATION PATTERNS:

A. CURRENT SITE ACCESS CHARACTERISTICS

The site has approximately 2,000 feet of frontage along both sides of Ballenger Creek Pike (MD Route 351) and 2,500 of frontage along Elmer Derr Road. The Phase I plan identifies two access points onto Elmer Derr Road, one west of Ballenger Creek Pike and one to the east.

B. EXISTING AND PROJECTED TRAFFIC VOLUMES OF MAJOR ROADS IN VICINITY

Traffic volumes on Ballenger Creek Pike in 2002 in this area were 2,575 vehicles/day. Volumes on Elmer Derr Road range from 2,342 vehicles/day between New Design Road and Ballenger Creek Pike to 934 vehicles/day west of Ballenger Creek Pike.

C. POTENTIAL TRAFFIC IMPACT (I.E., PROJECTED AVERAGE DAILY TRAFFIC) OF REZONING

Based upon an analysis of the number and types of units proposed as part of this application the following range of Average Daily Vehicle Trips can be anticipated (using the Institute of Transportation Engineers [ITE] Trip Generation Manual):

<i>140-165 Single Family Detached Units:</i>	Between 1,487 and 1,752 average daily trips.
<i>275-325 Single Family Attached Units:</i>	Between 1,611 and 1,904 average daily trips.
<i>300-350 Multi-Family Units:</i>	Between 1,831 and 2,136 average daily trips.

Total Potential Average Daily Trips Generated by the Proposal: Between 4,928 and 5,792 Average Daily Trips

**D. COMPREHENSIVE PLAN DESIGNATIONS OF MAJOR ROADS
IN VICINITY**

The 2001 Adamstown Region Plan identifies an arterial road connection between MD Route 85 and US Route 340 at Mount Zion Road. This connection would use English Muffin Way, a portion of Elmer Derr Road (where it adjoins this site), and a new road alignment from a point on Elmer Derr Road just west of this site. The portion of this arterial between Ballenger Creek Pike and MD Route 85 is designated as a Major Arterial (100-150 foot right-of-way) and the portion west of Ballenger Creek Pike to US Route 340 is designated as a Minor Arterial (80 foot right-of-way).

Regarding bicycle and pedestrian access, the County's Bikeways and Trails Plan identifies an on-street bikeway on Elmer Derr Road and on Ballenger Creek Pike north of Elmer Derr Road. There is also an off-street multi-use trail identified along Ballenger Creek to the north of the site.

E. PLANNED IMPROVEMENTS

County and/or State Planned Improvements:

There are no programmed County and/or State road improvements to either Ballenger Creek Pike or Elmer Derr Road. The only nearby programmed improvement is the widening of English Muffin Way, between MD Route 85 and New Design Road from 2 lanes to a 4-lane divided roadway. This project is currently under design and could be constructed within the next three years.

Improvements Proposed By the Applicant:

Ballenger Creek Pike (MD Route 351):

1. The applicant proposes to dedicate/provide a 100-foot right-of-way for this State roadway through the property.
2. The applicant further proposes to construct the "internal spine roadway" as a local public road with a 50-60 foot right-of-way.

Elmer Derr Road:

1. The applicant proposes to dedicate 80 feet of right-of-way for the Elmer Derr Road frontage of the property north of the intersection of Elmer Derr Road and Ballenger Creek Pike.
2. The applicant proposes to dedicate 100 feet of right-of-way for the Elmer Derr Road frontage of the property south of the intersection of Elmer Derr Road and Ballenger Creek Pike.

4. COMPATIBILITY WITH EXISTING AND PROPOSED DEVELOPMENT FOR THE AREA:

North:

Wellington Trace PUD, Small Gains Subdivision, Tuscarora Elementary School (*under construction*), and farmland (*zoned PUD and A*).

East:

Wellington Trace PUD and farmland (*zoned PUD and A*).

South:

Elmer Derr Road and farmland (*zoned A*).

West:

Farmland and large lot residential estates along Elmer Derr Road (*zoned A*).

Generally the land uses in the vicinity of the property are medium density residential, institutional, and agricultural.

5. RECOMMENDATION OF THE FREDERICK COUNTY PLANNING COMMISSION: The Frederick County Planning Commission recommended approval of the request with the following twenty-seven conditions:

1. The Applicant shall design, to the greatest extent possible, the project in accordance with the Community Design Guidelines and

Development Principles Manual, as approved by the Board of County Commissioners on July 16, 2002.

2. The Applicant shall provide a full wetland delineation for Phase II submission, as site-specific evaluations will be required for determining the extent of each land bay, for regulatory purposes, and comparison to state data.
3. The restoration of this wetland system shall be a part of this PUD approval, consistent with the Countywide Plan.
4. The Forest Resource Ordinance obligations for this property shall be met on-site as part of the Phase II and III approvals. Depending upon the further engineering analyses at Phase II, consideration shall be given to:
 - Increasing the woody buffer around the forested wetlands at the northern portion of the property;
 - Replanting the portions of the area shown as 'Greenspace' on Phase I submission, incorporating 'wet' species in priority planting areas identified in the FRO. As appropriate, this planting should include areas within the historic farmstead complex that are controlled by the applicant.
5. Additional soils studies addressing the delineation and suitability of the soil types on the property shall be prepared by a licensed soil scientist or other qualified expert and submitted as part of the Phase II Plan.
6. The portion of Elmer Derr Road/Relocated English Muffin Way east of MD 351 fronting the project shall have 100 feet of dedicated public right-of-way and be improved to meet County Major Arterial road standards as necessary to be consistent with the Adamstown Region Plan. West of MD 351, the Elmer Derr Road frontage of the property shall be improved to Minor Arterial road standards (80 feet of dedicated right-of-way) in accordance with the Adamstown Region Plan.
7. The portion of MD 351 fronting the project shall have 100 feet of dedicated public right-of-way and as a minimum, be improved to

match the road typical section for soon-to-be-complete Ballenger Creek Pike Bridge project (2-12' lanes and 2-10' shoulders, closed section.)

8. The applicant shall conduct a traffic signal analysis for the intersection of MD 351 with Lambert Drive and with Elmer Derr Road due to increased traffic volume from this development.
9. Deceleration, acceleration, and left turn lanes shall be provided along MD 351 to enhance the traffic operations at the proposed east entrance off of MD 351. Special consideration shall also be given to locating and designing a safe pedestrian crossing of MD 351 from the west of the project.
10. Provided that sufficient right-of-way is made available off the property, sidewalks shall be provided on east and west sides of MD 351 terminating at Lambert Drive for connection to surrounding sidewalk network for access to public schools (Tuscarora High School and Elementary School). Additional sidewalk requirements within the project shall be coordinated with the Board of Education.
11. The applicant shall complete a preliminary alignment study for English Muffin Way/Elmer Derr Road extension to US Route 340 to determine the right-of-way to be dedicated.
12. A multi-use trail shall be identified and constructed by the applicant within the limits of the site that would connect with the proposed Ballenger Creek Trail to the north.
13. The applicant shall furnish a feasibility study of water and sewer alternatives concurrent with the submission of a Phase II PUD plan pursuant to the Adequate Public Facilities Ordinance. The study should contain, but not be limited to:
 - All considerations of the goals and policies with Chapter 1 of the Frederick county Water and Sewerage Master Plan.
 - Consideration of the existing and projected water and sewer Capital Improvement Program projects, which impact this property, and an indication of how the site will interface with those improvements.

- A discussion of the water and sewer system inadequacies resulting from the construction of this property.
14. In conjunction with the submission of Phase II approval, the applicant shall provide an analysis of the need for a water storage tower/tank and booster station to provide water service to the project. If such analysis indicates that a water storage tower/tank and booster station is required to service the site, the applicant shall identify an appropriate on-site location, sufficient in size to accommodate the water storage tower/tank and booster station. Such site shall be conveyed as a fee simple outlot to Frederick County.
 15. The use of individual grinder pumps shall not be permitted.
 16. No new sewage pump station(s) shall be permitted on this site.
 17. To the extent necessary to provide adequate water supply to serve the project, offsite water mains may be required to provide adequate hydraulic capacity and redundancy to the water system.
 18. The applicant shall study, design, and construct, as necessary to provide adequate sewer service for the project, the appropriate portion(s) of the Ballenger Interceptor Sewer Phase II project, which has not been funded in the County's Capital Improvement Program (CIP).
 19. The applicant shall provide gravity sewer service to the existing residence, which is to be retained.
 20. The Applicant shall dedicate the 8.5± acre parcel depicted on the Linton Property PUD Phase I Schematic Plan dated September 2003 and revised October 29, 2003 to the Homeowners' Association (HOA) as an open space/recreational area and develop it as an Active Recreational Area.
 21. The applicant shall dedicate the 4.6± acre parcel adjoining the Tuscarora Elementary School to the County for the purposes of enlarging the school site (reference Linton Property PUD Phase I Schematic Plan dated September 2003 and revised October 29, 2003). Such 4.6 acres to be located adjacent to the southwest corner of the school site in a configuration that allows for additional fields for use by both the school and the County Parks and Recreation Program. The developer shall provide the site rough graded. In

addition, an alternative access to these fields shall be provided from an internal street in the new development.

22. The applicant shall dedicate a 3.0-acre public use site at the intersection of Ballenger Creek Pike and Elmer Derr Road as depicted upon the PUD Phase I Schematic Plan dated September 2003 and revised October 29, 2003.
23. The applicant shall provide improvements to the "S-curve" in the vicinity of Renn Branch located on Elmer Derr Road west of this property necessary to alleviate associated safety concerns related to any increased traffic impacts resulting from this proposal.
24. Access to Elmer Derr Road from this project shall be limited to one point east and one point west of Ballenger Creek Pike.
25. The applicant shall provide landscaped earth berm along the entire Elmer Deer Road frontage of the project. Such berm shall be of sufficient height to adequately screen the project from properties to the south across Elmer Derr Road.
26. The Elmer Derr Road frontage of Land Bay D shall only be developed with a variety of single-family detached units.
27. During the construction phases of this project, no more than a maximum of 125 residential lots may be recorded annually for this property.

6. **RELATIONSHIP OF THE PROPOSED AMENDMENT TO THE FREDERICK COUNTY COMPREHENSIVE PLAN:** The Board of County Commissioners finds that the property is located within the Adamstown Planning Region. The majority of the property is designated as appropriate for *Medium Density Residential* uses, while a small portion of the southwest corner of the site is shown on the maps as appropriate for *Limited Industrial* uses. The *Frederick County Comprehensive Plan, Volume I: Countywide Plan* defines *Medium Density Residential* areas as appropriate for residential development in the range of more than 4 dwelling units per acre, but less than or equal to 10 dwelling units per acre and served by public water and sewer facilities. *Limited Industrial* areas are defined as areas appropriate for the development of a variety of employment uses not needing high visibility and excluding heavy industrial activities.

The intent of the Region Plan designation for this area is to indicate that the areas north of the proposed alignment of the extension of English Muffin Way are designated as appropriate for *Medium Density Residential* uses and the areas south of the proposed alignment are to be designated as appropriate for *Limited Industrial* uses. The topography of the area dictates that the alignment of the English Muffin Way extension be located further to the south of this parcel-entirely on the adjoining property. As such, the property is be totally designated as appropriate for *Medium Density Residential* uses. The proposed PUD reclassification is consistent with the Frederick County Comprehensive Plan.

The Board adopts the one mile neighborhood delineated in the Staff Report.

Based on all the evidence submitted in this matter, the Board of County Commissioners determines that this project concept is both feasible and desirable. The Board finds that the proposal complies with all purposes of the PUD classification and will further those purposes. The Board finds that this proposal is compatible with adjoining land uses and will have no significant adverse impacts. The Board finds that this proposal is in the public interest. The Board finds that the required conditions are related both in nature and extent to the impact of the proposed development. The Board establishes as the maximum land use density, 5.5 dwelling units per acre, based on the ratio of the 763 proposed dwelling units on the 138.7 acre site.

The proposed PUD classification will be granted subject to the conditions stated below.

ORDINANCE

BE IT ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND, that for the reasons set forth above, Rezoning Case No. R-03-01 is hereby **GRANTED** for the reclassification of

138.7 acres of land, more or less, from the Agricultural classification to the Planned Unit Development (PUD) classification, as described in the record, subject to the following conditions:

1. The Applicant shall design, to the greatest extent possible, the project in accordance with the Community Design Guidelines and Development Principles Manual, as approved by the Board of County Commissioners on July 16, 2002.
2. The Applicant shall provide a full wetland delineation for Phase II submission, as site-specific evaluations will be required for determining the extent of each land bay, for regulatory purposes, and comparison to state data.
3. The restoration of this wetland system shall be a part of this PUD approval, consistent with the Countywide Plan.
4. The Forest Resource Ordinance obligations for this property shall be met on-site as part of the Phase II and III approvals. Depending upon the further engineering analyses at Phase II, consideration shall be given to:
 - Increasing the woody buffer around the forested wetlands at the northern portion of the property;
 - Replanting the portions of the area shown as 'Greenspace' on Phase I submission, incorporating 'wet' species in priority planting areas identified in the FRO. As appropriate, this planting should include areas within the historic farmstead complex that are currently controlled by the applicant. This, and all conditions, apply to the Applicant and its successors in interest on all or any part of the property.
5. Additional soils studies addressing the delineation and suitability of the soil types on the property shall be prepared by a licensed soil scientist or other qualified expert and submitted as part of the Phase II Plan.
6. The Applicant shall dedicate a 100 foot public right-of-way on the portion of Elmer Derr Road/Relocated English Muffin Way east of MD 351 fronting the project. In addition, the Applicant shall

improve the portion of Elmer Derr Road/Relocated English Muffin Way east of MD 351 to meet County Major Arterial Road standards as necessary to be consistent with the Adamstown Region Plan. West of MD 351, the Elmer Derr Road frontage of the property shall be improved to Minor Arterial road standards (80 feet of dedicated right-of-way) in accordance with the Adamstown Region Plan.

7. The portion of MD 351 fronting the project shall have 100 feet of dedicated public right-of-way and as a minimum, be improved to match the road typical section for soon-to-be-complete Ballenger Creek Pike Bridge project (2-12' lanes and 2-10' shoulders, closed section.)
8. The Applicant shall conduct a traffic signal analysis for the intersection of MD 351 with Lambert Drive and with Elmer Derr Road due to increased traffic volume from this development.
9. The Applicant shall provide deceleration, acceleration, and left turn lanes along MD 351 to enhance the traffic operations at the proposed east entrance off of MD 351, including locating and designing a safe pedestrian crossing of MD 351 from the west of the project.
10.
 - a) The Applicant shall provide sidewalks on: (1) the east side of MD 351 and (2) on that portion of the west side of MD 351 over which Applicant has control, terminating at Lambert Drive, for connection to the surrounding sidewalk network for access to public schools (Tuscarora High School and Elementary School). Additional sidewalk requirements within the project shall be coordinated with the Board of Education.
 - b) As to that portion on the west side of MD 351 over which Applicant has no control, Applicant shall make reasonable efforts to obtain sufficient right-of-way -- at no additional cost to Applicant -- to provide sidewalk on the west side of MD 351 from Applicant's property to Lambert Drive.
11. The applicant shall complete a preliminary alignment study for English Muffin Way/Elmer Derr Road extension to US Route 340 to determine the right-of-way to be dedicated.

12. A multi-use trail shall be identified and constructed by the applicant within the limits of the site that would connect with the proposed Ballenger Creek Trail to the north.
13. The applicant shall furnish a feasibility study of water and sewer alternatives concurrent with the submission of a Phase II PUD plan pursuant to the Adequate Public Facilities Ordinance. The study should contain, but not be limited to:
 - All considerations of the goals and policies with Chapter 1 of the Frederick county Water and Sewerage Master Plan.
 - Consideration of the existing and projected water and sewer Capital Improvement Program projects, which impact this property, and an indication of how the site will interface with those improvements.
 - A discussion of the water and sewer system inadequacies resulting from the construction of this property.
14. In conjunction with the submission of Phase II approval, the applicant shall provide an analysis of the need for a water storage tower/tank and booster station to provide water service to the project. If such analysis indicates that a water storage tower/tank and booster station is required to service the site, the applicant shall identify an appropriate on-site location, sufficient in size to accommodate the water storage tower/tank and booster station. Such site shall be conveyed as a fee simple outlot to Frederick County.
15. The use of individual grinder pumps shall not be permitted.
16. No new sewage pump station(s) shall be permitted on this site.
17. To the extent necessary to provide adequate water supply to serve the project, the Applicant shall install offsite water mains to provide adequate hydraulic capacity and redundancy to the water system.
18. The Applicant shall study, design, and construct, as necessary to provide adequate sewer service for the project, the appropriate portion(s) of the Ballenger Interceptor Sewer Phase II project, which has not been funded in the County's Capital Improvement Program (CIP).

19. The applicant shall provide gravity sewer service to the existing residence, which is to be retained.
20. The Applicant shall convey the 8.5± acre parcel depicted on the Linton Property PUD Phase I Schematic Plan dated September 2003 and revised October 29, 2003 to the Homeowners' Association (HOA) as an open space/recreational area and develop it as an Active Recreational Area.
21. The applicant shall dedicate the 4.6± acre parcel adjoining the Tuscarora Elementary School to the County for the purposes of enlarging the school site (reference Linton Property PUD Phase I Schematic Plan dated September 2003 and revised October 29, 2003). Such 4.6 acres is to be located adjacent to the southwest corner of the school site in a configuration that allows for additional fields for use by both the school and the County Parks and Recreation Program. The Applicant shall provide the site rough graded. In addition, the Applicant shall provide an alternative access to these fields from an internal street in the new development.
22. The applicant shall dedicate to the County a 3.0-acre public use site at the intersection of Ballenger Creek Pike and Elmer Derr Road as depicted upon the PUD Phase I Schematic Plan dated September 2003 and revised October 29, 2003.
23. The applicant shall provide within available right-of-way improvements to the "S-curve" in the vicinity of Renn Branch located on Elmer Derr Road west of this property necessary to improve associated safety concerns related to any increased traffic impacts resulting from this proposal.
24. At the time of Phase II and Phase III approvals, the number of points of access to Elmer Derr Road shall be the minimum number necessary to permit safe and adequate circulation for the project and potential public and/or quasi-public uses within the project.
25. The applicant shall provide a landscaped earth berm along the entire Elmer Derr Road frontage of the project. Such berm shall be of sufficient height to adequately screen the project from properties to the south across Elmer Derr Road.

26. During the construction phases of this project, no more than a maximum of 150 residential lots may be recorded annually for this property.

AND BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD, that the Zoning Administrator is hereby authorized and directed to make the appropriate change on the Zoning Map showing this reclassification, with conditions, as indicated above.

The undersigned hereby certify that this Ordinance was approved and adopted on the 11th day of MARCH, 2004.

BOARD OF COUNTY COMMISSIONERS
OF FREDERICK COUNTY, MARYLAND

By: Michael L. Cady
Michael L. Cady, Vice President

John R. Lovell, Jr.
John R. Lovell, Jr.

ATTEST:

Douglas D. Browning
Douglas D. Browning
County Manager

Bruce L. Reeder
Bruce L. Reeder

MSc 3/10/04

Commissioners John L. Thompson, Jr. and Jan H. Gardner voted against the proposed PUD reclassification.